

**SEC. 402. PROHIBITION ON CERTAIN ADDITIONAL BENEFITS FOR PERSONS COMMITTING CAPITAL CRIMES.**

(a) **PRESIDENTIAL MEMORIAL CERTIFICATE.**—Section 112 is amended by adding at the end the following new subsection:

“(c) A certificate may not be furnished under the program under subsection (a) on behalf of a deceased person described in section 2411(b) of this title.”.

(b) **FLAG TO DRAPE CASKET.**—Section 2301 is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

“(g) A flag may not be furnished under this section on behalf of a deceased person described in section 2411(b) of this title.”.

(c) **HEADSTONE OR MARKER FOR GRAVE.**—Section 2306 is amended by adding at the end the following new subsection:

“(g)(1) A headstone or marker may not be furnished under subsection (a) for the unmarked grave of a person described in section 2411(b) of this title.

“(2) A memorial headstone or marker may not be furnished under subsection (b) for the purpose of commemorating a person described in section 2411(b) of this title.

“(3) A marker may not be furnished under subsection (d) for the grave of a person described in section 2411(b) of this title.”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to deaths occurring on or after the date of the enactment of this Act.

**SEC. 403. PROCEDURES FOR DISQUALIFICATION OF PERSONS COMMITTING CAPITAL CRIMES FOR INTERMENT OR MEMORIALIZATION IN NATIONAL CEMETERIES.**

Section 2411(a)(2) is amended—

(1) by striking “The prohibition” and inserting “In the case of a person described in subsection (b)(1) or (b)(2), the prohibition”; and

(2) by striking “or finding under subsection (b)” and inserting “referred to in subsection (b)(1) or (b)(2), as the case may be,”.

**TITLE V—JUDICIAL, PROCEDURAL, AND ADMINISTRATIVE MATTERS**

**SEC. 501. STANDARD FOR REVERSAL BY COURT OF APPEALS FOR VETERANS CLAIMS OF ERRONEOUS FINDING OF FACT BY BOARD OF VETERANS' APPEALS.**

(a) **STANDARD FOR REVERSAL.**—Paragraph (4) of subsection (a) of section 7261 is amended by striking “if the finding is clearly erroneous” and inserting “if the finding is adverse to the claimant and the Court determines that the finding is unsupported by substantial evidence of record, taking into account the Secretary's application of section 5107(b) of this title”.

(b) **SCOPE OF AUTHORITY.**—That subsection is further amended—

(1) in the matter preceding paragraph (1), by striking “this chapter” and inserting “section 7252(a) of this title”; and

(2) in paragraph (4), as amended by subsection (a) of this section, by inserting “or reverse” after “set aside”.

(c) **MATTERS RELATING TO FINDINGS OF MATERIAL FACT.**—That section is further amended by adding at the end the following new subsection:

“(e)(1) In making a determination on a finding of material fact under subsection (a)(4), the Court shall review the record of proceedings before the Secretary and the Board of Veterans' Appeals pursuant to section 7252(b) of this title.

“(2) A determination on a finding of material fact under subsection (a)(4) shall specify the evidence or material on which the Court relied in making such determination.”.

(d) **APPLICABILITY.**—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (a) and (b)(2) shall apply with respect to any ap-

peal filed with the United States Court of Appeals for Veterans Claims—

(A) on or after the date of the enactment of this Act; or

(B) before the date of the enactment of this Act, but in which a final decision has not been made under section 7291 of title 38, United States Code, as of that date.

**SEC. 502. REVIEW BY COURT OF APPEALS FOR THE FEDERAL CIRCUIT OF DECISIONS OF LAW OF COURT OF APPEALS FOR VETERANS CLAIMS.**

(a) **REVIEW.**—(1) Subsection (a) of section 7292 is amended in the first sentence by inserting after “the validity of” the following: “a decision of the Court on a rule of law or of”.

(2) Subsection (c) of that section is amended—

(A) in the first sentence, by inserting after “the validity of” the following: “a decision of the Court of Appeals for Veterans Claims on a rule of law or of”; and

(B) in the second sentence, by striking “such court” and inserting “the Court of Appeals for the Federal Circuit”.

(b) **APPLICABILITY.**—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to any appeal—

(1) filed with the United States Court of Appeals for the Federal Circuit on or after the date of the enactment of this Act; or

(2) pending with the United States Court of Appeals for the Federal Circuit as of the date of the enactment of this Act in which a decision has not been rendered as of that date.

**SEC. 503. AUTHORITY OF COURT OF APPEALS FOR VETERANS CLAIMS TO AWARD FEES UNDER EQUAL ACCESS TO JUSTICE ACT FOR NON-ATTORNEY PRACTITIONERS.**

The authority of the United States Court of Appeals for Veterans Claims to award reasonable fees and expenses of attorneys under section 2412(d) of title 28, United States Code, shall include authority to award fees and expenses, in an amount determined appropriate by the United States Court of Appeals for Veterans Claims, of individuals admitted to practice before the Court as non-attorney practitioners under subsection (b) or (c) of Rule 46 of the Rules of Practice and Procedure of the United States Court of Appeals for Veterans Claims.

**SEC. 504. RETROACTIVE APPLICABILITY OF MODIFICATIONS OF AUTHORITY AND REQUIREMENTS TO ASSIST CLAIMANTS.**

(a) **RETROACTIVE APPLICABILITY.**—Except as specifically provided otherwise, the provisions of sections 5102, 5103, 5103A, and 5126 of title 38, United States Code, as amended by section 3 of the Veterans Claims Assistance Act of 2000 (Public Law 106-475; 114 Stat. 2096), apply to any claim—

(1) filed on or after November 9, 2000; or

(2) filed before November 9, 2000, and not final as of that date.

(b) **READJUDICATION OF CERTAIN CLAIMS.**—If the United States Court of Appeals for Veterans Claims, the United States Court of Appeals for the Federal Circuit, or the Supreme Court renders a decision during the period beginning on April 24, 2002, and ending on the date of the enactment of this Act holding that section 3(a) of the Veterans Claims Assistance Act of 2000 is not applicable to a case covered by the decision because such section 3(a) was not intended to be given retroactive effect, the Secretary of Veterans Affairs shall, upon request of the claimant or on the Secretary's own motion, order the claim readjudicated under chapter 51 of such title, as amended by the Veterans Claims Assistance Act of 2000, as if Board of Veterans' Appeals most recent denial of the claim concerned had not occurred.

Amend the title to read as follows: “A bill to amend title 38, United States Code, to modify and improve authorities relating to compensation and pension benefits, education benefits, housing benefits, and other

benefits for veterans, to improve the administration of benefits for veterans, and for other purposes.”.

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Thursday, September 26, 2002 at 9:30 a.m. in SD-406 to conduct a business meeting to consider the following items:

**Legislation:**

S. 606, the Ombudsman Reauthorization Act of 2001

S. 2065, the Southern Ute and Colorado Intergovernmental Agreement Implementation Act of 2002

S. 2715, a bill to provide an additional extension of the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001

S. 2730, Restore the Apalachicola River Ecosystem Act of 2002

S. 2847, Crane Conservation Act of 2002

S. 2897, the Marine Turtle Conservation Act of 2002

S. 2928, the Daniel Patrick Moynihan Lake Champlain Basin Program Act of 2002

S. 2975, a bill to authorize the project for hurricane and storm damage reduction, Morganza, Louisiana, to the Gulf of Mexico, Mississippi River and Tributaries

S. 2978, a bill to modify the project for flood control, Little Calumet River, IN

S. 2983, a bill to authorize a project for navigation, Chickamauga Lock and Dam, TN

S. 2984, a bill to authorize a project for ecosystem restoration at Smith Island, MD

S. 2985, the Anthrax Cleanup Assistance Act of 2002

S. 2999, a bill to authorize the project for environmental restoration, Pine Flat Dam, Fresno County, California.

H.R. 1070, the Great Lakes Legacy Act of 2002

H.R. 2595, a bill to direct the Secretary of the Army to convey a parcel of land to Chat-

ham County, GA

H.R. 3908, the North American Wetlands Conservation Reauthorization Act of 2002

H.R. 4044, a bill to authorize the Secretary of the Interior to provide assistance to the State of Maryland for implementation of a program to eradicate nutria and restore marshland damaged by nutria

H.R. 4727, the Dam Safety and Security Act of 2002

H.R. 4807, a bill to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Blackwater National Wildlife Refuge.

**Courthouse Naming:**

S. 2332, a bill to designate the Federal building and United States courthouse to be constructed at 10 East Commerce Street in Youngstown, Ohio, as the “Nathaniel R. Jones Federal Building And United States Courthouse”.

**Resolutions:**

Committee Resolution for U.S. Army Corp of Engineers' study in the Chesapeake Bay Watershed, MD

Committee Resolution for the U.S. Army Corp of Engineers' study in Fall River Harbor, MA

Committee Resolution for the U.S. Army Corp of Engineers' study in Elliott Bay, WA

Numerous building and lease resolutions.  
*Other Items:*

Subpoenas for new source review documentation to the Environmental Protection Agency and the Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 26, 2002 at 10:30 a.m. to hold a hearing on Iraq.

#### AGENDA

Witnesses: The Honorable Madeleine K. Albright, Former Secretary of State, Chairman, National Democratic Institute, Washington, DC; The Honorable Henry A. Kissinger, Former Secretary of State, CEO, Kissinger Associates, Inc., New York, NY.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 26, 2002 at 2:30 a.m. to hold a hearing on Iraq.

#### AGENDA

Witness: The Honorable Colin L. Powell, Secretary of State, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on Internet Education: Exploring the Benefits and Challenges of Web-Based Education during the session of the Senate on Thursday, September 26, 2002, at 10:00 a.m. in SD-430.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, September 26, 2002, at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on Intra-tribal Leadership Disputes and Tribal Governance.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Judicial Nominations" on Thursday, September 26, 2002 in Dirksen Room 106 at 10:00 a.m.

Panel I: The Honorable John W. Warner, United States Senator (R-VA); The Honorable Charles E. Grassley, United States Senator (R-IA); The Honorable Tom Harkin, United States Senator (D-IA); The Honorable Phil Gramm, United States Senator (R-TX); The Honorable Kent Conrad, United States Senator (D-ND); The Honorable Byron Dorgan, United States Senator (D-ND); The Honorable Kay Bailey Hutchison, United States Senator (R-TX); The Honorable Robert Torricelli, United States Senator (D-NJ);

The Honorable George Allen, United States Senator (R-VA); The Honorable Jon Corzine, United States Senator (D-NJ).

Panel II: Miguel Estrada, nominated to the D.C. Circuit.

Panel III: Stanley Chesler, to be United States District Court Judge for the District of New Jersey; Daniel Hovland, to be United States District Court Judge for the District of North Dakota; James Kinkeade, to be United States District Court Judge for the Northern District of Texas; Linda Reade, to be United States District Court Judge for the Northern District of Iowa; Freda Wolfson, to be United States District Court Judge for the District of New Jersey.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, September 26, 2002 at 10:00 a.m. to hold a joint hearing with the House Permanent Select Committee on Intelligence concerning the Joint Inquiry into the events of September 11, 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SPECIAL COMMITTEE ON AGING

Mr. REID. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Thursday, September 26, 2002 from 10:00 a.m.–12:00 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 1040 through 1046 and 1048 through 1051; that the nominations be confirmed, the motions to reconsider be laid upon the table; that any statements thereon be printed in the RECORD; that the President be immediately notified of the Senate's action; and the Senate return to legislative session, all without any intervening action or debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

#### CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Michelle Guillermin, of Maryland, to be Chief Financial Officer Corporation for National and Community Service.

#### NATIONAL COUNCIL ON DISABILITY

Glenn Bernard Anderson, of Arkansas, to be a Member of the National Council on Disability for a term expiring September 17, 2005.

Milton Aponte, of Florida, to be a Member of the National Council on Disability for a term expiring September 17, 2003.

Barbara Gillcrist, of New Mexico, to be a Member of the National Council on Disability for a term expiring September 17, 2005.

Graham Hill, of Virginia, to be a Member of the National Council on Disability for a term expiring September 17, 2005.

Marco A. Rodriguez, of California, to be a Member of the National Council on Disability for a term expiring September 17, 2005.

David Wenzel, of Pennsylvania, to be a Member of the National Council on Disability for a term expiring September 17, 2004.

Glenn Bernard Anderson, of Arkansas, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

Barbara Gillcrist, of New Mexico, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

Graham Hill, of Virginia, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

Marco A. Rodriguez, of California, to be a Member of the National Council on Disability for a term expiring September 17, 2002.

### LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate will now return to legislative session.

#### UNANIMOUS CONSENT AGREEMENT—H.J. RES. 111

Mr. REID. Mr. President, I ask unanimous consent when the Senate receives from the House H.J. Res. 111, a continuing resolution to fund the Government at 2002 levels and terms therein until October 4, that the joint resolution be considered read three times, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### MEASURE READ THE FIRST TIME—S.J. RES. 45

Mr. REID. Mr. President, S.J. Res. 45 was introduced earlier today by Senators DASCHLE and LOTT and is now at the desk. I therefore ask for its first reading.

The ACTING PRESIDENT pro tempore. The clerk will report the joint resolution by title for the first time.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 45) to authorize the use of United States Armed Forces against Iraq.

Mr. REID. Mr. President, I now ask for its second reading but object to my own request on behalf of the minority.

The ACTING PRESIDENT pro tempore. Objection having been heard, the joint resolution will receive its second reading on the next legislative day.

#### MEASURE READ THE FIRST TIME—S. 3009

Mr. REID. Mr. President, S. 3009 was introduced earlier today by Senator WELLSTONE and others and is now at the desk. I ask for its first reading.